

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

○ TRIMESTER 3, 2019/2020

UCN2612 – CONFLICT OF LAWS (All Sections / Groups)

11 JUNE 2020

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 minutes)

Answering Time: 9.15 a.m. – 12.15 a.m.
(3 hours)

C INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of **THREE** pages with **FIVE** Questions only.
3. Answer **ALL** questions in **PART A** and **ONE (1)** question in **PART B**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring in **CLEAN** and **ORIGINAL** copies of the following statute(s) into the Examination Hall:
 - (i) Reciprocal Enforcement of Judgments Act 1958
5. Please write all your answers in the Answer Booklet provided.

PART A:
ANSWER ALL THE QUESTIONS

QUESTION 1

It is clear that Malaysian principles of Conflict of Laws are based on English common law. Despite the fact that its English counterpart has undergone progressive changes and developments, Malaysian law has remained significantly unchanged over the years.

In your opinion, what areas in the Malaysian Conflict of Laws shall be improved?

(Total: 25 marks)

QUESTION 2

- (a) Kampang and Co. ("Kampang"), an English company specialising in Malaysian cuisine, entered into a contract with Baunya Sdn Bhd ("Baunya"), a Malaysian business producing and exporting belacan. The parties entered into the contract for Baunya to supply and Kampang to purchase 150 kg of belacan. When the belacan arrived in London, it was found that they were perished.

Kampang suspected that ingredients of low quality were used by Baunya to produce the belacan while Baunya put the blame on the logistic company. Being dissatisfied, Kampang brought an action in the English court claiming for compensation for breach of contract.

At the High Court of Justice in London, Kampang obtained the order to serve the writ onto Baunya whose office is in Sentul. The service was done by a law firm in Bangsar, Coco and Co. Baunya ignored the writ and got its solicitors to write to Kampang's solicitors saying that it did not recognize a service done by a private firm.

- (b) Nevertheless, Kampang proceeded with its claim *ex parte* and it eventually obtained a judgment against Baunya. They now wish to enforce the judgment in Kuala Lumpur.

As an intern student in Coco and Co., you are assigned by your supervisor to advise the following issues:

(a) What is the procedure to enforce the English judgment?
(10 marks)

(b) What are the possible defences that Baunya may raise and how would you counter them?
(15 marks)

(Total: 25 marks)

Continued...

QUESTION 3

Peem and Gideon are domiciled in England. Peem rented his holiday apartment in Pattaya, Thailand to Gideon for seven months by an agreement. It provides that all disputes arising from the rental shall be settled in England.

After four months staying in the apartment in Pattaya, Gideon broke some of the furnitures and refused to pay rental to Peem.

Being dissatisfied, Peem decided to sue Gideon in court. However, he is unsure in which court he shall file the claim.

Advise Peem.

(Total: 25 marks)

PART B:**ANSWER ANY ONE (1) QUESTION ONLY****QUESTION 4A**

Sathianpong and Nathas are Malaysians. However, they have been residing in Thailand since young. They have become popular artists in Thailand. Both of them always work together in hosting talk shows online and also in starring movies and dramas.

To attract audience, they always joke at and tease each other during the talk shows. Last week, as scheduled, they went online for their show. During the show, Nathas said that Sathianpong was actually a playboy. He had had sexual relationship with three women at once. At first everyone including Sathianpong himself thought that Nathas was joking. However, Nathas did not stop and he even accused Sathianpong to have been tested positive for HIV.

This got on Sathianpong's nerve. He asked Nathas to stop but the latter seemed to be enjoying with his 'jokes'. Sathianpong could not hold this anymore and he punched Nathas in his face which broke his nose bone and two teeth.

According to the law of Thailand, anything said in a show cannot be the basis of a claim in a court of law.

Both of them were dismissed by their company and they have returned to Malaysia. Sathianpong wishes to sue Nathas for defamation while Nathas intends to sue Sathianpong for battery in Malaysia.

Advise the parties.

(Total: 25 marks)

Continued...

QUESTION 4B

Mei Mei was born in Malaysia in 1977 to parents who were domiciled in Thailand. In 1992, together with her parents and elder brother Sarawat, they migrated to Sydney, Australia.

Thanapob was born in 1972 to parents who were domiciled in France. He attended law school in Sydney and got a job there shortly after he graduated.

Mei Mei met Thanapob at a party and became close friends. They were subsequently married in Sydney in 1998. After their marriage, Mei Mei and Thanapob continued to live in Sydney. Three years later, they were divorced. At that time, Mei Mei was seven months pregnant. She left Australia and moved to Wellington, New Zealand to stay with Sarawat.

Thanapob was killed in a traffic accident three weeks before Tine, baby of his and Mei Mei, was born. When Tine was three years old, Mei Mei decided to illegally migrate to South Korea while Tine continued to live with Sarawat in New Zealand for good.

○ Discuss the general rules on domicile and trace the changes of domicile of all the parties involved.

(Total: 25 marks)

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